

**State of California  
Office of Administrative Law**

In re:

California Pollution Control Financing  
Authority

Regulatory Action:

Title 4, California Code of Regulations

Adopt sections:

Amend sections: 8035

Repeal sections:

NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE

Government Code Section 11349.1 and  
11349.6(d)

OAL File No. 2013-0821-03 C

Small businesses contribute significantly to environmental emissions but are less able than large businesses to invest in new equipment or process modifications needed to comply with environmental regulation. Pursuant to Health and Safety Code section 44548, the California Pollution Control Financing Agency adopted regulations establishing a small business assistance fund fee to be used to assist small businesses to achieve financing of pollution control facilities. Effective April 23, 2013, the California Pollution Control Financing Agency amended section 8035 of title 4 of the California Code of Regulations to add a subdivision (e) that waives the assessment of the small business assistance fund fee until June 30, 2015. This regulatory action was deemed an emergency by the Legislature pursuant to Health and Safety Code section 44520(b). On August 21, 2013, the California Pollution Control Financing Agency submitted a certificate of compliance for the emergency adoption of subdivision (e) of section 8035 of title 4 of the California Code of Regulations.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 9/24/2013

**CRIG TARPENNING**

Craig S. Tarpenning  
Assistant Chief Counsel

For: DEBRA M. CORNEZ  
Director

Original: Renee Webster-Hawkins  
Copy: Andrea Gonzalez

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-0611-01	REGULATORY ACTION NUMBER 2013-0821-03C	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

ENDORSED FILED  
IN THE OFFICE OF

2013 SEP 24 PM 3:31

2013 AUG 21 PM 3:55

OFFICE OF  
ADMINISTRATIVE LAWJenna Bowen  
DEPUTY SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Pollution Control Financing Authority

AGENCY FILE NUMBER (if any)

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE Notice re Proposed <input type="checkbox"/> Other <input type="checkbox"/> Regulatory Action <input type="checkbox"/>		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn <input type="checkbox"/>		NOTICE REGISTER NUMBER 2013 252	PUBLICATION DATE 6/21/2013

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Small Business Financing Authority	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0416-02E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Title 4, Division 11, Article 3, Section 8035.(e)
	REPEAL
TITLE(S) 4	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)


<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY.

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Andrea Gonzalez	TELEPHONE NUMBER 916.651.7284	FAX NUMBER (Optional) 916.657.4821	E-MAIL ADDRESS (Optional) agonzalez@treasurer.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNER  
  
TYPED NAME AND TITLE OF SIGNATORY  
Sherri Kay Wahl, Deputy Executive Director

DATE  
21 August 2013

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 24 2013

Office of Administrative Law

**Title 4. Business Regulations**  
**Division 11. California Pollution Control Financing Authority**  
**Article 3. General Provisions Relating to Authority Actions**

**§ 8035. Small Business Assistance Fund Fees.**

- (a) The Authority shall charge an applicant who is not a public agency or a small business as defined in Section 8020 a fee in addition to the fees required by Sections 8033 and 8034. The additional fee shall fund the Small Business Assistance Fund (SBAF). The amount of the fee shall be sixty-six one-hundredths of one percent (.0066) of the face value of any tax exempt bonds issued and three tenths of one percent (.003) of the face value of any taxable bonds issued; provided, that in connection with the issuance of taxable bonds for which the .003 fee is charged, if such taxable bonds are refinanced with or converted to tax exempt bonds, the applicant shall pay an additional fee for deposit into the Small Business Assistance Fund in the amount of thirty-six one-hundredths of one percent (.0036) of the face value of such taxable bonds. In the case of refunding or conversion of bonds, the fee percentage applicable on the date the original bonds were issued will be used to determine if additional SBAF fees are collectable. If the company did not pay a SBAF fee originally, the current fee percentage will apply to refundings or conversions. If federal tax law or other legal provisions prevent the imposition of the above fees, each fee shall be the maximum that can legally be charged.
- (b) The Authority shall refund a portion of the fee charged pursuant to subdivision (a) of this section if the occurrence of a subsequent event causes the original fee to exceed the amount allowed by federal tax law provisions, causing the bonds to lose their tax exempt status. The refund shall be the difference between the original fee charged and the maximum fee subsequently determined to be chargeable by bond counsel approved by the Authority.
- (c) The Authority shall refund a portion of the fee charged if, in the judgment of the Authority, the amount in the Small Business Assistance Fund account exceeds the amount needed to operate the Small Business Assistance Fund program and to assist small businesses obtain financing. If the Authority makes a refund pursuant to this subdivision, the amount of the refund payable to each applicant shall be computed by multiplying the total amount to be refunded by the percentage each applicant contributed in fees to the total fees collected pursuant to this section.
- (d) If an applicant refinances existing bonds with the issuance of new bonds, it shall receive a credit against the fee charged pursuant to this section in an amount equal to the net Small Business Assistance Fund fees paid on the earlier bonds.
- (e) The assessment of the fee provided for in subsection (a) on all new financing transactions is waived until June 30, 2015. In the case of refunding bonds and conversion bonds, there will be no SBAF fee charged if the original bonds were issued after the effective date of this subsection and before June 30, 2015.